

Revenue Legislation in the Congressional Budget Process

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Most of the laws establishing the federal government's revenue sources are permanent and continue year after year without any additional legislative action. Congress, however, typically enacts revenue legislation, changing some portion of the existing tax system, every year. Revenue legislation may include changes to individual and corporate income taxes, social insurance taxes, excise taxes, or tariffs and duties. This report provides a brief summary of the constitutional provisions and various procedural rules governing the congressional consideration of revenue legislation. For more information on the budget process, see the CRS Guides to Congressional Processes at <http://www.crs.gov/products/guides/guidehome.shtml>.

Article I, Section 8 of the U.S. Constitution provides Congress with the power “to lay and collect taxes, duties, imposts and excises.” The 16th Amendment grants Congress the power to levy an income tax. Section 7 of Article I requires that all revenue legislation originate in the House of Representatives, but the Senate has considerable latitude to amend a revenue bill received from the House.¹

Revenue legislation is under the jurisdiction of the House Committee on Ways and Means and the Senate Committee on Finance. In the House, Rule XXI, clause 5(a) protects the Ways and Means Committee's jurisdiction by barring other committees from reporting revenue measures. Other legislative committees, however, may report legislation authorizing other types of collections (e.g., user fees).

Revenue legislation is not automatically considered in the congressional budget process on an annual basis. Frequently, however, the President proposes and Congress considers changes in the rates of taxation or the distribution of the tax burden. An initial step in the congressional budget process is the publication of revenue estimates of the President's budget by the Congressional Budget Office (CBO). These revenue estimates usually differ from the President's since they are based on different economic and technical assumptions (e.g., growth of the economy and change in the inflation rate). As Congress considers revenue legislation throughout the year, CBO prepares cost estimates of any congressional revenue proposals, based on revenue estimates made by the Joint Committee on Taxation (JCT). Such revenue estimates are published in committee reports or in the *Congressional Record*.

The Congressional Budget Act of 1974 (Titles I-IX of P.L. 93-344, 2 U.S.C. 601-688), as amended, provides for the annual adoption of a budget resolution to serve as a framework for the consideration of budgetary legislation each year. Accordingly, the budget resolution contains projected revenue levels under existing law, adjusted for any proposed policy changes, for a period of at least five fiscal years. The budget resolution also may include reconciliation directives instructing the House Ways and Means and Senate Finance Committees to report revenue legislation to meet the recommended levels of revenues. Once reported, such revenue reconciliation legislation is considered under special procedures on the House and Senate floor.²

Separate from any reconciliation directives, revenue legislation may originate under the normal legislative process, initiated by the revenue committees or individual members. Section 303 of the Budget Act, however, prohibits revenue legislation from being considered before a budget resolution has been adopted.

¹ For more information regarding the origination clause, see CRS Report RL31399, *The Origination Clause of the U.S. Constitution: Interpretation and Enforcement*, by James V. Saturno.

² For further information on the reconciliation process, see CRS Report RL33030, *The Budget Reconciliation Process: House and Senate Procedures*, by Robert Keith and Bill Heniff Jr.

When revenue legislation is considered, its content is restricted under the rules of the congressional budget process. First, Section 311 of the Budget Act prohibits the consideration of revenue legislation that would cause revenues to fall below the agreed upon levels contained in the budget resolution for the first fiscal year or the total for all fiscal years. Second, both the House and Senate have “pay-as-you-go” (PAYGO) requirements for revenue legislation. The House and Senate PAYGO rules (Rule XXI, clause 10, and Section 201 of S.Con.Res. 21, the FY2008 budget resolution, respectively) prohibit the consideration of revenue legislation (as well as direct spending legislation) that would have the net effect of increasing the deficit (or reducing the surplus, in the House) over either a six-year period covering the current fiscal year plus the ensuing five fiscal years or an 11-year period covering the current fiscal year plus the ensuing 10 fiscal years.³

In addition, the House Rules include three provisions regulating the consideration in the House of any revenue legislation modifying federal income tax rates. First, clause 5(b) of Rule XXI requires three-fifths of the members voting to pass a federal income tax rate increase. Second, clause 5(c) of the same rule prohibits any measure with a retroactive federal income tax rate increase from being considered on the House floor. Finally, clause 3(h) of Rule XIII requires a “tax complexity analysis” and a “macroeconomic impact analysis” prepared by the JCT of any Ways and Means Committee-reported bill or joint resolution that proposes to amend the Internal Revenue Code of 1986. Such an analysis may be included in the committee report accompanying the measure or printed in the *Congressional Record* prior to the measure’s consideration on the House floor.

A point of order is the procedural mechanism for enforcing the rules governing the consideration of revenue legislation. Points of order, however, are not self-enforcing: a Member must raise a point of order to enforce such rules. Budget enforcement points of order also may be waived. In the House, a point of order may be waived by unanimous consent, by suspension of the rules, or by a special rule reported by the Rules Committee and adopted by the full House. In the Senate, points of order under the Budget Act or provided in budget resolutions, such as the PAYGO point of order, may be waived by unanimous consent or by motion as provided under Section 904 of the Budget Act. A motion to waive most Budget Act points of order requires an affirmative vote of three-fifths of all Senators duly chosen and sworn (60 votes if there are no vacancies); Section 303 of the Budget Act may be waived by a majority vote.

³ For further information on these PAYGO rules, see CRS Report RL34300, *Pay-As-You-Go Procedures for Budget Enforcement*, by Robert Keith.

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